

MAINE HUMAN RIGHTS COMMISSION

COMMISSION MEETING MINUTES

Senator Conference Center (Best Western) Embassy Room

284 Western Ave ~ Augusta, Maine

June 29, 2009

Chair Paul Vestal called the June 29, 2009 Commission meeting to order at 8:32 a.m. Present were Commissioners: Paul Vestal, Chair; Jadine O'Brien; Sallie Chandler; Joe Perry; and Kenneth Fredette.

Chair Paul Vestal called for adoption of the agenda.

- Executive Director Patricia Ryan requested that case E08-0089: *McDougall v. Reny's be moved* moved to first on list of cases at the request of one of the parties.
- Executive Director Patricia Ryan requested that case E08-0456: *Butler v. Capital Pizza Huts be moved* to the end of the cases listed on the original morning agenda at the request of one of the parties.
- Executive Director Patricia Ryan requested that case E08-0028: *McGinley v. Home Depot be moved* to third from last on the agenda at the request of one of the parties.
- Executive Director Patricia Ryan requested that all cases listed in the afternoon session be moved to the end of the morning session. She noted that parties had previously been notified.
- Executive Director Patricia Ryan requested that Complainant be granted approval to withdraw case PA/ED 08-0541. Procedural Rules require Commission approval after an Investigator's Report has been issued. Executive Director Ryan noted that Respondent agreed with the request for withdrawal.

Commissioner Chandler moved, seconded by Commissioner O'Brien to approve the withdrawal of PA/ED08-0541 and adopt the agenda as amended. 5 in favor, 0 opposed

CONSENT AGENDA (*see list attached*)

Commissioner O'Brien moved, seconded by Commissioner Perry to accept the Investigator's recommendations in each of the cases on the Consent Agenda. 5 in favor, 0 opposed

MINUTES

Commissioner Chandler moved, seconded by Commissioner O'Brien to adopt the Minutes of the May 18, 2009, Commission Meeting. 5 in favor, 0 opposed

ADMINISTRATION

Personnel Report: Commissioners reviewed the report and it was placed on file.

Compliance Report: Commissioners reviewed Fran Davis' report and it was placed on file.

INVESTIGATION

- New Charges: Commission staff opened 67 new charges in May.
- Administrative Dismissals: 17 cases were administratively dismissed in May.
- Pre-determination Settlements: During the month of May investigators were responsible for obtaining settlements in 11 cases resulting in a total monetary relief of \$62,945.75.

NEW BUSINESS:

Executive Director Patricia Ryan provided a brief legislation update on LD 353: Biennial Budget appropriations; LD 797: Offensive Names; LD 962 Family Caregivers; and LD 1108: Statute of Limitations under the MHRA.

Executive Director Patricia Ryan presented the proposed the 2010 Commission Meeting schedule. There were no objections or changes to the scheduled dates. Commissioners discussed meeting facilities and decided to continue to keep the current arrangement of meeting at the Sentator for convenience for the parties, accessibility, the ability to consistently meet at the same place, the ability to have food brought in to meetings when cases ran over time schedules, and for comparison of costs at similar facilities.

Chief Investigator Barbara Lelli made a brief presentation on Methods of Investigation to the Commission.

At 9:04 Chair Vestal called for a 5 minute recess.

CASES VOTED ON:

E08-0089: Richard McDougall (West Bath) v. R.H. Reny, Inc. (Newcastle): Attorney Kristin Aiello restated the position of the Complainant. Attorney Stephen Langsdorff restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Perry to find no reasonable grounds to believe unlawful employment discriminations because of disability has occurred. | 5 in favor | 0 opposed |

E07-0293: Bonnie Chase (Gorham) v. Laboratory Billing Services, Inc. (Saco): Attorney Chad Hansen restated the position of the Complainant. Attorney Susan Driscoll restated the position of the Respondent. Investigator Bob Beauchesne restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that unlawful employment discrimination because of physical disability has occurred | 5 in favor | 0 opposed |

E07-0294 - Bonnie Chase (Gorham) v. AMS Acquisition Corp. (Saco): Attorney Chad Hansen restated the position of the Complainant. Attorney Susan Driscoll restated the position of the Respondent. Field Investigator Bob Beauchesne restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that unlawful employment discrimination because of physical disability has occurred. | 5 in favor | 0 opposed |

PA07-0711 - Shirley Carney v. Corinth Family Medicine (Corinth) & PA07-0712, Shirley Carney v. Sunbury Medical Associates (Carmel): Attorney Beth Gallie restated the position of the Complainant. Attorney Michael Duddy restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe unlawful public accommodation discrimination because of disability has occurred. | 4 in favor | 1 opposed | (O'Brien opposed)

E08-0030: Therese Delcourt (Lewiston) v. Central Maine Medical Center (Lewiston) & E08-0031: Therese Delcourt (Lewiston) v. Minot Avenue Family Practice (Auburn): Therese Delcourt restated the position of the Complainant. Attorney Michael Poulin was present on behalf of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that unlawful employment discrimination because of whistleblower retaliation discrimination has occurred. | 5 in favor | 0 opposed |

E08-0146: Steven Kristman (Auburn) v. Rent-A-Center (Westbrook): Complainant was not present. Respondent was not present. Commissioner O'Brien moved, seconded by Commissioner Perry to find no reasonable grounds to believe that unlawful employment discrimination because of disability has occurred. | 5 in favor | 0 opposed |

E08-0175: Nycole McGlaulin (Edinburg) v. RCC Atlantic, Inc/Rural Cellular Corp. (Bangor): Attorney Chad Hansen restated the position of the complainant. Attorney Melinda Catherine restated the position of the Respondent. Investigator Paul Pierce restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Fredette to find no reasonable grounds to believe unlawful employment discrimination because of age, sex or disability has occurred. | 4 in favor | 1 opposed | (Perry opposed). Commissioner O'Brien moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that employment discrimination occurred because Complainant was held to a different and harsher standard than a male employee. | 5 in favor | 0 opposed |

PA08-0185: Charyse DuVallee (Portland) v. Greater Portland Transit District (Portland): Attorney Peter Lee restated the position of the Complainant. Attorney Harry Pringle restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that Respondent subjected Complainant to unlawful disability harassment or is subjecting Complainant to ongoing and unlawful denial of access to public conveyance. | 5 in favor | 0 opposed | Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that Respondent unlawfully denied Complainant access to a public conveyance on February 28, 2008. | 5 in favor | 0 opposed |

E08-0456: Mary Butler (Detroit) v. Capital Pizza Huts, Inc. (Newport): Complainant was not present. Respondent was present. Commissioner O'Brien moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that unlawful employment discrimination because of sexual harassment, Whistleblower Protection Act, or retaliation has occurred. | 5 in favor | 0 opposed |

E08-0391: Dawn Desjardins (Fort Kent) v. Northern Maine Medical Center (Fort Kent): Attorney Ellie Burnett restated the position of the Complainant. Attorney Mason Pratt restated the position of the Respondent. Commissioner Chandler moved, seconded by Commissioner Fredette to find no reasonable grounds to believe that unlawful employment discrimination because of sex or Whistleblower Protection discrimination has occurred. | 5 in favor | 0 opposed |

At 12:15: Commissioner Fredette left the meeting.

E08-0409: Kendra Parlin (Mercer) v. Burger King (Waterville): Kendra Parlin restated the position of the Complainant. Lorie Palmer restated the position of the Respondent. Investigator Paul Pierce restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner O'Brien to find no reasonable grounds to believe that unlawful employment discrimination because of sex has occurred. | 4 in favor | 0 opposed |

H09-0060: Sheryl Scheu (Portland) v. Portland Housing Authority et al. (Portland): Sheryl Scheu restated the position of the Complainant. Attorney Dan Rose restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Perry to find no reasonable grounds to believe unlawful housing discrimination because of disability has occurred. | 4 in favor | 0 opposed |

PA/ED08-0239: Parent of Minor Student 1 v. School Union 87, et. al. (Orono): Attorney Eric Menhert restated the position of the Complainant. Attorney Melissa Hewey restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe unlawful education and public accommodation discrimination has occurred because of sexual orientation when Complaint was denied access to common bathrooms that are consistent with Complainant's gender identity. | 4 in favor | 0 opposed |

PA/ED08-0415: Guardian of Minor Student 2 v. Asa Adams School (Orono) Guardian Paul Melanson restated the position of the Complainant. Attorney Melissa Hewey restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner O'Brien to find no reasonable grounds to believe unlawful public accommodation discrimination because of sexual orientation has occurred. | 4 in favor | 0 opposed |

At 1:30 Commissioner Vestal left the meeting. Commissioner O'Brien assumed the position of Chair.

E08-0028: Nicolette McGinley (Norway) v. Home Depot U.S.A., Inc. (S. Portland): Attorney Ellie Burnett restated the position of the Complainant. Attorney Tracy Boland restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner O'Brien noted she would be abstaining. Since the abstention resulted in lack of a quorum, Executive Director Ryan stated she would arrange a telephone conference call as soon as possible when Commissioners would hear oral argument by the parties and vote on this case. The statute of limitations runs July 17, 2009.

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Perry to move into executive session to discuss litigation with Commission Counsel pursuant to 1 M.R.S.A. §405(6)E. 3 in favor, 0 opposed Commissioner Chandler moved, seconded by Commissioner O'Brien to move out of executive session. | 3 in favor | 0 opposed |

LITIGATION:

Commissioner Chandler moved, seconded by Commissioner Perry, not to file a court complaint in the following cases:

- E07-0500, Michael W. Afthim v. Alternative Labor Resources, Inc.
 - E07-0697, Donna Van Horn v. Cardiovascular Consultants of Maine, Inc.
 - E07-0701, Ellen Gammon V. Crisis and Counseling.
 - E08-0005, Victoria Spaulding v. T-Mobile USA, Inc.
 - E08-0201, Melanie Wallace v. H.D. Goodall Hospital.
- | 3 in favor | 0 opposed |

Commissioner Chandler moved, seconded by Commissioner Perry, to authorize Commission Counsel to further review E07-0683: Melissa Clark v. Breezy Meadows., and file a complaint if conciliation efforts failed, if Counsel believed it was in the Commission's interests to do so. | 3 in favor | 0 opposed |

Commissioner Chandler moved, seconded by Commissioner Perry, to file a court complaint in PA07-0711 - Shirley Carney v. Corinth Family Medicine (Corinth) & PA07-0712, Shirley Carney v. Sunbury Medical Associates (Carmel) should conciliation attempts fail. I 3 in favor I 0 opposed I

ADJOURN:

There being no further business to come before the Commission, the meetings was adjourned at 2:10 p.m.

CONSENT AGENDA:

The consent agenda is a listing of cases scheduled on the Commission's meeting agenda in which there is no written disagreement to the Investigator's recommendation. Commissioners consider these cases without oral argument by the parties.

<i>Case</i>	<i>Parties</i>	<i>Result</i>
<i>E07-0440:</i>	<i>Lori Skidgell (West Paris) v. Advanced Auto Parts (South Paris)</i>	<i>NRG</i>
<i>E07-0476</i>	<i>Reginald Curtis v. Denny's Restaurant (Bangor)</i>	<i>NRG</i>
<i>E07-0529:</i>	<i>Michelle Ouellette (Greene) v. Edward's Restaurant, Inc. (Lewiston)</i>	<i>RG/NRG</i>
<i>PA08-0091:</i>	<i>Daniel Boggs (DE) v. Maine GayNet (Maine)</i>	<i>NRG</i>
<i>E08-0098:</i>	<i>Lorettea Kilgore (Farmingdale) v. DFH Acq. d/b/a The Kennel Shop (Augusta)</i>	<i>NRG</i>
<i>E08-0140:</i>	<i>Helen Hogle (Portland) v. Verizon (MA)</i>	<i>RG/NRG</i>
<i>E08-0164:</i>	<i>Charles Kirk (Falmouth) v. Wal-Mart Stores (AR)</i>	<i>NRG</i>
<i>E08-0174:</i>	<i>Cally Green (Portland) v. Habitat for Humanity of Greater Portland (Portland)</i>	<i>NRG</i>
<i>E08-0273:</i>	<i>Janice-Ellen Scherer-Dufner (Lyman) v. The Cliff House (Ogunquit)</i>	<i>NRG</i>
<i>E08-0331:</i>	<i>John Smedberg (Shawmut) v. Poultry Products Company of Maine (Winslow)</i>	<i>NRG</i>
<i>E08-0367</i>	<i>Katherine Frazee v. Unishippers (Waterville)</i>	<i>NRG</i>
<i>E08-0385</i>	<i>Doreen Fortin v. General Electric (KY)</i>	<i>NRG</i>
<i>E08-0402</i>	<i>Lori Ferguson v. Miles Health Care, Inc. (Damariscotta)</i>	<i>NRG</i>
<i>E08-0431:</i>	<i>Carol Cook (Portland) v. Lifestyle Fitness Center (Scarborough)</i>	<i>NRG</i>
<i>E08-0433:</i>	<i>Philip Brushwein (Danville) v. The Pineland Lumber Co (Lewiston)</i>	<i>NRG</i>
<i>E08-0503:</i>	<i>Kristin Peterson (NH) v. Oneida Outlet Store (Kittery)</i>	<i>NRG</i>
<i>E08-0563:</i>	<i>Alice Cassidy (Freeport) v. Oser Communications Group (AZ)</i>	<i>NRG</i>